

**FILED**

FEB 23 2001

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CALIFORNIA INDEPENDENT SYSTEM  
OPERATOR CORPORATION,

No. Civ. S-01-0238 FCD/JFM

Plaintiff,

v.

**STIPULATION AND ORDER**

RELIANT ENERGY SERVICES, INC.,  
RELIANT ENERGY COOLWATER, LLC,  
RELIANT ENERGY ELLWOOD, LLC,  
RELIANT ENERGY ETIWANDA, LLC,  
RELIANT ENERGY MANDALAY, LLC;  
and RELIANT ENERGY ORMOND  
BEACH, LLC,

Defendants.

WHEREAS certain of the parties to this litigation have entered into agreements relating to the relief requested in the motions currently pending before this Court,

IT IS HEREBY STIPULATED AND AGREED THAT:

1. The temporary restraining order currently in effect will expire as of 5:00 p.m. on February 23, 2001 or the date of execution by the Court of this Stipulation and Order, whichever is earlier. In the event this Stipulation and Order is not executed by the Court as of 5:00 p.m. on February 23, 2001, Plaintiff California Independent System Operator withdraws its consent thereto.

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- 1           2.     The Reliant Defendants, Williams, and Dynegy (collectively “Generator  
2           Defendants”) will comply with emergency dispatch orders of the California ISO  
3           under the terms of the ISO tariff without regard to whether ISO allocates the cost  
4           of power produced in response to such a dispatch order to a creditworthy  
5           Scheduling Coordinator until the earlier of the following:  
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7           (a)     5:00 p.m. Pacific Standard Time on March 19, 2001, or  
8           (b)     two business days (but in no event less than 48 hours) after written notice  
9           to this Court and the parties by a Generator Defendant that this stipulated  
10          obligation is terminated as to it.  
11         3.     Notice of termination by a Generator Defendant of its obligation under paragraph  
12          2(b) shall not affect the stipulated obligations or remaining Generator Defendants  
13          except that, on receipt of such notice, each remaining Generator Defendant shall  
14          have the right to file with the Court an election terminating its obligation. In the  
15          event of such an election, the obligation of a terminating Generator Defendant to  
16          comply with ISO dispatch orders imposed by paragraph 2 shall end 48 hours after  
17          written notice to ISO of the election to terminate. Each terminating Generator  
18          Defendant shall have the same right and status to participate in any legal  
19          proceedings that follow the initial notice of termination, including any appeal.  
20         4.     The motions heard by this Court on February 16, 2001, including ISO’s motion  
21          for preliminary injunction, Reliant’s motion to dismiss or stay pursuant to the  
22          FERC order, and DWR’s motion to dismiss Reliant’s third party complaint, will  
23          be deemed submitted at 5:00 p.m. on March 16, 2001, or at 5:00 p.m. on the day  
24          written notice of termination of the obligation stipulated in paragraph 2 is filed  
25          with the Court, whichever is earlier.  
26         5.     No further discovery or motions related to claims heretofore asserted may be  
27          initiated in this action prior to the submission under paragraph 4 other than a  
28          motion to enforce the terms of this Stipulation and Order.

- 1           6.     The deadlines for filing all responsive pleadings (including but not limited to  
2           DWR's answer to Reliant's third-party complaint, which deadline becomes  
3           applicable only if DWR's motion to dismiss is denied; ISO's answer or response  
4           to Reliant's counterclaims; and Dynegy's and Williams' answers or responses to  
5           the complaint) shall be extended until 30 days after the date of submission  
6           specified in paragraph 4.
- 7           7.     The parties will file a joint status conference statement on Friday, March 9, 2001,  
8           and will appear before the Court for a further status conference on Friday, March  
9           16 at 1:30 p.m.
- 10          8.     This stipulation is the result of compromise and shall not be construed as an  
11          admission by any party concerning the merits of any other party's claims and/or  
12          defenses. The parties' obligations under this stipulation are expressly subject to  
13          all other rights and remedies the parties may have, including, but not limited to,  
14          the right to seek orders by the Federal Energy Regulatory Commission with  
15          respect to a generator's obligation under the ISO tariff to respond to an emergency  
16          dispatch order if the ISO does not have a creditworthy scheduling coordinator to  
17          which all of the costs associated with the emergency dispatched power can be  
18          allocated.

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1 DATED: February 23, 2001.

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FARELLA BRAUN & MARTEL, LLP

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By: Norma G. Formanek *(initials)*

Norma G. Formanek  
Attorneys for Plaintiff California  
Independent System Operator Corporation

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DATED: February \_\_, 2001.

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McCUTCHEN, DOYLE, BROWN & ENERSEN, LLP

By: Terry J. Houlihan *(initials)*

Terry J. Houlihan  
Attorneys for the Reliant Defendants

14 DATED: February \_\_, 2001.

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By: \_\_\_\_\_

Robert A. Mittelstaedt  
Attorneys for Defendant  
Dynegy Power Corp.

1 DATED: February 23, 2001.

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FARELLA BRAUN & MARTEL, LLP

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By: \_\_\_\_\_

6

Norma G. Formanek

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Attorneys for Plaintiff California

Independent System Operator Corporation

8

DATED: February \_\_, 2001.

9

McCUTCHEN, DOYLE, BROWN & ENERSEN, LLP

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11

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By: \_\_\_\_\_

13

Terry J. Houlihan

Attorneys for the Reliant Defendants

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DATED: February 23, 2001.

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PILLSBURY WINTHROP LLP

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By: Michael Han for

19

Robert A. Mittelstaedt

Attorneys for Defendant

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Dynegy

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STIPULATION AND [PROPOSED] ORDER  
(CASE NO. 2:01-CV-00238 FCD JFM)

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1 DATED: February \_\_, 2001.

3 THE WILLIAMS COMPANIES, INC.

5 By: Alex A. Goldberg TSH  
6 Alex A. Goldberg  
7 Senior Regulatory Counsel  
8 Attorneys for Defendant Williams Energy

8 ~~DATED: February \_\_, 2001.~~

10 ~~WILLIAMS & CONNOLLY, LLP~~

11 ~~By: \_\_\_\_\_~~  
12 ~~Steve Raber~~  
13 ~~Attorneys for the AES Defendants~~

13 DATED: February 23, 2001.

14 OFFICE OF THE ATTORNEY GENERAL  
15 OF THE STATE OF CALIFORNIA

16  
17 By: Vickie P. Whitney  
18 Vickie P. Whitney  
19 Deputy Attorney General  
20 Attorneys for Intervenor People of the State of  
21 California ex rel. Electricity Oversight Board

20 DATED: February 23, 2001.

21 STATE OF CALIFORNIA  
22 ELECTRICITY OVERSIGHT BOARD

23  
24 By: Sidney Mannheim Jubien  
25 Sidney Mannheim Jubien  
26 Senior Staff Counsel  
Attorneys for the Electricity Oversight Board

STIPULATION AND [PROPOSED] ORDER  
(CASE NO. 2:01-CV-00238 FCD JFM)

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21313108.2/25136-0004

1 DATED: February 23, 2001.

2 OFFICE OF THE ATTORNEY GENERAL  
3 OF THE STATE OF CALIFORNIA

4  
5 By: Richard M. Thalhammer

6 Richard M. Thalhammer  
7 Supervising Deputy Attorney General  
8 Attorneys for the California Department of  
9 Water Resources, *Specialty appearing*  
and without waiving any objections to its  
status as a party herein.

10 Pursuant to the above stipulation, IT IS SO ORDERED.

11 DATED: February \_\_, 2001.

12  
13 Frank C. Damrell, Jr.  
14 The Hon. Frank C. Damrell, Jr.  
15 United States District Judge  
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STIPULATION AND [PROPOSED] ORDER  
(CASE NO. 2:01-CV-00238 FCD/JFM)

United States District Court  
for the  
Eastern District of California  
February 23, 2001

\* \* CERTIFICATE OF SERVICE \* \*

2:01-cv-00238

CA Independent

v.

Reliant Energy Svc

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I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on February 23, 2001, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

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MP/FCD

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Jack L. Wagner, Clerk

  
by: Deputy Clerk